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| APPLICATION NO.       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 10/644,689            | 08/19/2003  | Gregory Gordon Rose  | 020682              | 6710             |
| 23696                 | 7590        | 12/21/2009           |                     |                  |
| QUALCOMM INCORPORATED |             |                      | EXAMINER            |                  |
| 5775 MOREHOUSE DR.    |             |                      | DADA, BEEMNET W     |                  |
| SAN DIEGO, CA 92121   |             |                      | ART UNIT            | PAPER NUMBER     |
|                       |             |                      | 2435                |                  |
|                       |             |                      | NOTIFICATION DATE   | DELIVERY MODE    |
|                       |             |                      | 12/21/2009          | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
kascanla@qualcomm.com  
nanm@qualcomm.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/644,689             | ROSE ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | BEEMNET W. DADA        | 2435                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 October 2009.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10, 13-20, 22, 23, 25-30, 33-38, 40-47 and 50-57 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10, 13-20, 22, 23, 25-30, 33-38, 40-47 and 50-57 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/09 has been entered. Claims 1, 3, 5-10, 13, 22, 23, 25-27, 29, 30, 33-37, 40-44, 46, 47 and 50-57 have been amended. Claims 1-10, 13-20, 22, 23, 25-30, 33-38, 40-47 and 50-57 are pending.

### ***Response to Arguments***

Applicant's arguments, filed 10/29/09, with respect to 35 USC 103(a) rejections of claims 1-57 have been fully considered and are persuasive. The rejections of claims 1-57 under 35 USC 103(a) has been withdrawn. However, upon further consideration claims 1-10, 13-20, 22, 23, 25-30, 33-38, 40-47 and 50-57 are rejected under 35 USC 101.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10, 13-20, 22, 23, 25-30, 33-38, 40-47 and 50-57 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 recites a method for efficiently generating a key stream. The claimed method is not tied to a particular machine or apparatus and does not transform underlying subject matter to a different state of thing and therefore directed to a non- statutory subject matter. Claim 2-10,

13-20, 22, 23, 25, 26 and 55 depend from claim 1 and therefore are rejected under the same rationale.

Claims 27-30, 33-36, 44-47, 50-54 and 56 are directed to an apparatus for generating a key stream. The examiner respectfully asserts that the claimed subject matter does not fall within the statutory classes listed in 35 USC 101. It is understood by the examiner that the claims can be implemented through software and therefore, the recited claims are directed to functional descriptive material. Claims 27-30, 33-36 and 56 are rejected as being directed to a functional descriptive material.

Claims 37, 38, 40-43 and 57 are directed to a machine readable medium. The examiner respectfully asserts that the claimed subject matter does not fall within the statutory class listed in 35 USC 101. It is understood by the examiner that the claimed medium can be directed to a data signal. A signal does not fall within one of the four statutory classes of 101. Claims 37, 38, 40-43 and 57 are rejected as being directed to electronic signals.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEEMNET W. DADA whose telephone number is (571)272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Beemnet W Dada/  
Primary Examiner, Art Unit 2435  
December 17, 2009